

JS-6

**UNITED STATES DISTRICT COURT  
FOR THE CENTRAL DISTRICT OF CALIFORNIA**

SCOTTSDALE INSURANCE  
COMPANY, an Ohio corporation,

Plaintiff,

v.

BEACHCOMBER MANAGEMENT  
CRYSTAL COVE, LLC, a  
California limited liability company,  
BEACHCOMBER AT CRYSTAL  
COVE, LLC, a California limited  
liability company,  
SHAKE SHACK CRYSTAL COVE,  
LLC, a California limited liability  
company,  
DOUGLAS CAVANAUGH, a  
California citizen  
RALPH KOSMIDES, a California  
citizen,

Defendants.

RICHARD A. MARSHACK, Chapter 7  
Trustee and Assignee of Claims  
From BEACHCOMBER AT  
CRYSTAL COVE, LLC, a  
California limited liability company,  
and SHAKE SHACK CRYSTAL  
COVE, LLC, a California limited  
liability company,

Counterclaimant,

v.

Case No. 8:22-cv-01300-JWH-KES

**JUDGMENT**

1 SCOTTSDALE INSURANCE  
2 COMPANY, an Ohio insurance  
3 company,

4 Counterdefendant.  
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Pursuant to the “Order Granting Plaintiff’s Motion for Summary Judgment [ECF No. 49] and Denying Counterclaimant’s Motion for Summary Judgment [ECF No. 50]” entered on or about January 21, 2025, and in accordance with Rules 56 and 58(d) of the Federal Rules of Civil Procedure,

It is hereby **ORDERED, ADJUDGED, and DECREED** as follows:

1. This Court possesses subject matter jurisdiction over the above-captioned action pursuant to 28 U.S.C. § 1332.

2. The operative pleadings in this case are as follows:

a. the Complaint [ECF No. 1] filed by Plaintiff Scottsdale Insurance Company (“Scottsdale”);

b. the Counterclaim [ECF No. 36] filed by Counterclaimant Richard Marshack, in his capacity as Chapter 7 Trustee and Assignee of Claims from Beachcomber at Crystal Cove, LLC, a California limited liability company, and Shake Shack Crystal Cove, LLC, a California limited liability company (the “Trustee”);

3. Defendant Ralph Kosmides was **DISMISSED with prejudice** on or about September 27, 2022.

4. Defendant Beachcomber Management Crystal Cove, LLC was **DISMISSED with prejudice** on or about November 11, 2022.

5. Defendant Douglas Cavanaugh was **DISMISSED with prejudice** on or about November 11, 2022.

6. On or about December 28, 2022, the Trustee was granted leave to intervene in his capacity as Chapter 7 Trustee for non-party Ruby’s Diner, Inc. and as the assignee of the claims of Defendants Beachcomber at Crystal Cove, LLC and Shake Shack Crystal Cove, LLC.

7. Judgment is hereby **ENTERED in FAVOR** of Scottsdale, and **AGAINST** the Trustee, on Count I of the Complaint. The Court hereby **DECLARES** that the “Prior Notice Exclusion” contained in the insurance

1 policy that Scottsdale issued to Beachcomber Management Crystal Cove, LLC  
2 (the “Scottsdale Policy”) bars coverage for the adversary proceeding for which  
3 the Trustee seeks coverage (the “Underlying Action”), and, as a result,  
4 Scottsdale has no duty to defend or indemnify the Insureds under the Scottsdale  
5 Policy in connection with the Underlying Action.

6 8. Judgment is hereby **ENTERED in FAVOR** of Scottsdale, and  
7 **AGAINST** the Trustee, on Count II of the Complaint. The Court hereby  
8 **DECLARES** that the Underlying Action does not constitute a “Claim” that  
9 was first made during the policy period of the Scottsdale Policy, and, as a result,  
10 the Underlying Action does not fall within the scope of coverage of the  
11 Scottsdale Policy, and, therefore, Scottsdale has no duty to defend or indemnify  
12 the Insureds under the Scottsdale Policy in connection with the Underlying  
13 Action.

14 9. Scottsdale has voluntarily **DISMISSED** Count III of the  
15 Complaint.

16 10. Judgment is hereby **ENTERED in FAVOR** of Scottsdale, and  
17 **AGAINST** the Trustee, on Count I of the Counterclaim. That claim for relief  
18 is **DISMISSED with prejudice**.

19 11. Judgment is hereby **ENTERED in FAVOR** of Scottsdale, and  
20 **AGAINST** the Trustee, on Count II of the Counterclaim. That claim for relief  
21 is **DISMISSED with prejudice**.

22 12. Other than potential post-judgment remedies (including those  
23 provided in Rule 54(d) of the Federal Rules of Civil Procedure), to the extent  
24 that any party requests any other form of relief, such request is **DENIED**.

25 **IT IS SO ORDERED.**

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27 Dated: January 23, 2025

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John W. Holcomb  
UNITED STATES DISTRICT JUDGE